

AN ORDINANCE 2006-06-29-0783

AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH SAN ANTONIO AVIATION, INC. FOR 27,832 SQUARE FEET OF HANGAR/OFFICE SPACE AND 137,445 SQUARE FEET OF GROUND, PREFERENTIAL RAMP, AND PARKING SPACE LOCATED AT STINSON MUNICIPAL AIRPORT, FOR A TERM OF 10 YEARS FOR AN ANNUAL RENT OF \$42,109.26 UNTIL SEPTEMBER 30, 2006 AND THEREAFTER AT AN ANNUAL RENT OF \$45,935.01 THROUGH EXPIRATION OF THE LEASE.

* * * * *

WHEREAS, San Antonio Aviation, Inc., ("SAA") has operated as a Fixed-Base Operator at Stinson Municipal Airport since 1981; and

WHEREAS, SAA's leases have expired and SAA has continued its tenancy on a month to month basis pending negotiation of a new lease; and

WHEREAS, SAA has requested that the City enter into a new ten (10) year Stinson Municipal Airport Lease for ground and building space sufficient for SAA to continue and grow its business; and

WHEREAS, the Lease Agreement contains provisions for capital improvements by SAA, as well as current airport standard provisions including those concerning security, insurance, indemnification, and performance guarantee; and

WHEREAS, it is necessary to authorize the execution of the attached Lease Agreement for use of the ground space described therein, at the Stinson Municipal Airport; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager or her designee is authorized to execute the Stinson Municipal Airport Lease Agreement, which is attached hereto as Attachment 1, for use of the ground, hangar, office, preferential ramp space, and parking space described therein, at the Stinson Municipal Airport.

SECTION 2. The proceeds of this Lease Agreement will be deposited into SAP Fund No. 51001000, entitled "Airport Operations" Internal Order 223000000014, and General Ledger Accounts 4405410, 4405415, and 4405400.

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocation to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

WHD
06/29/06
Item No. 59

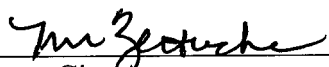
SECTION 4. This Ordinance shall be effective on or after the tenth (10th) day after passage.

PASSED AND APPROVED this 29th day of June 2006.


M A Y O R

PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney

ATTACHMENT 1

STINSON MUNICIPAL AIRPORT LEASE

STATE OF TEXAS

§
§

COUNTY OF BEXAR §

THIS AGREEMENT, entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter called "Lessor"), acting by and through its City Manager, pursuant to Ordinance No. _____, adopted on _____, 2006 and San Antonio Aviation, Inc., a Texas business corporation acting by and through its designated officers pursuant to its Bylaws, or a Resolution of its Board of Directors (hereinafter called "Lessee"), WITNESSETH:

I. DESCRIPTION OF PREMISES DEMISED

1.1 Lessor, for and in consideration of the rents, covenants and promises herein contained to be kept, performed and observed by Lessee, does hereby lease unto Lessee and Lessee does hereby accept from Lessor the following described property (collectively referred to as "Leased Premises").

1.1.1 Ground Space/Preferential Use Ramp Space: 128,125 Square Feet of land being a portion of New City Block 7464, located on the Stinson Municipal Airport Subdivision, Unit 2 according to a plat thereof recorded in Volume 9554, Page 26 of the Plat Records of Bexar County, Texas ("Ground Space"); and

1.1.2 Hangar Space: 21,222 Square Feet of hangar space located at 8411 Mission Rd., at Stinson Municipal Airport, San Antonio, Bexar County, Texas, and more specifically shown on "Exhibit 1", which is attached hereto and made a part hereof by reference. ("Building 602")

1.1.3. Office/Hangar Space: 6,610 Square Feet of hangar and office space located at 8431 Mission Rd., at Stinson Municipal Airport, San Antonio, Bexar County, Texas, and more specifically shown on "Exhibit 1", which is attached hereto and made a part hereof by reference. ("Building 604")

1.1.4 Parking Lot Space: 9,320 square feet of parking lot space adjacent to Building 604 as more specifically shown on Exhibit 1, which is attached hereto and made a part hereof by reference. ("Parking Lot Space").

II. RENTAL

2.1 Lessee hereby agrees to pay Lessor as rental for the use and occupancy of the Leased Premises, at the times and in the manner hereinafter provided:

A. Rental Rates Applicable between Commencement Date and September 30, 2006 are as follows:

<u>Premises</u>	<u>Sq. Ft. Area</u>	<u>Annual Rate Per Sq. Ft.</u>	<u>Annual Rental</u>	<u>Monthly Rental</u>
Ground Space/Ramp	128,125 ± sq. ft.	\$0.12	\$15,375.00	\$1,281.25
Parking Lot	9,320 ± sq. ft.	\$0.12	\$1,118.40	\$93.20
Building 602 Space	21,222 ± sq. ft.	\$0.88	\$18,675.36	\$1,556.28
Building 604 Space	6,610 ± sq. ft.	\$1.05	\$6,940.50	\$578.38

B. Beginning October 1, 2006 and for the remaining term of the Lease, unless adjusted in accordance with Section 1, of the Standard Provisions of this Lease, the Rental Rates shall be as follows:

<u>Premises</u>	<u>Sq. Ft. Area</u>	<u>Annual Rate Per Sq. Ft.</u>	<u>Annual Rental</u>	<u>Monthly Rental</u>
Ground Space/Ramp	128,125 ± sq. ft.	\$0.15	\$19,218.75	\$1,601.56
Parking Lot	9,320 ± sq. ft.	\$0.12	\$1,118.40	\$93.20
Building 602 Space	21,222 ± sq. ft.	\$0.88	\$18,675.36	\$1,556.281
Building 604 Space	6,610 ± sq. ft.	\$1.05	\$6,940.50	\$578.38

2.2 All rentals shall be calculated on an annual basis and shall be paid by Lessee to Lessor in advance without invoicing, notice or demand, in equal monthly installments on or before the first day of each calendar month beginning on the Commencement Date (as defined in Article 3.1 below) and continuing through the remainder of the Lease Term and any extension(s). In the event that the term of this Lease Agreement shall commence on a day other than the first day of any calendar month or expire on a day other than the last day of a calendar month, then, and in such event, rental installments will be prorated for the applicable month.

2.3 All rentals and payments that become due and payable by the Lessee shall be made to the City of San Antonio, Office of the Aviation Director, San Antonio International Airport, 9800 Airport Blvd., San Antonio, Texas, 78216, or such other place as the Stinson Municipal Airport Manager (hereinafter called "Airport Manager") shall designate in writing to the Lessee. All rentals and payments shall be due on the first day of each month. All rentals which remain unpaid for thirty (30) days after the date due shall bear interest at the rate of ten percent (10%) per annum commencing on the thirtieth (30th) day after the date on which such payment was due.

2.4 Such rentals shall be subject to the adjustments in rental rates contained in Standard Provision 1 of the Standard Provisions attached hereto as Exhibit 2, or as provided in Article 9. Special Provisions.

III. TERM

3.1 The term of this Lease Agreement shall be ten (10) years, and shall commence ten (10) days following the passage of an ordinance by the City Council approving such action and authorizing the execution of this Lease Agreement, ("Commencement Date") and shall terminate at midnight of the last day of the ten (10) year term unless sooner terminated in accordance with the provisions of this Lease.

32 The Lease Term and subsequent renewals, if any, will at all times be subject to the provisions for recapture and/or early termination herein contained.

IV. USE OF THE PREMISES

4.1 Lessee shall use the Leased Premises for the following purposes and for no other: Sale of aircraft, aircraft parts, and pilot supplies; aircraft maintenance, storage, aircraft rental and charter; flight instruction; fuel and oil dispensing services; and/or such other aviation related purposes as approved in writing by the Aviation Director.

V. INDEMNIFICATION

5.1 LESSEE covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to LESSEE's activities under this LEASE, including any acts or omissions of LESSEE, any agent, officer, director, representative, employee, consultant or subcontractor of LESSEE, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this LEASE, all without however, the City waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS LEASE. The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. LESSEE shall promptly advise the CITY in writing of any claim or demand against the CITY or LESSEE known to LESSEE related to or arising out of LESSEE's activities under this LEASE and shall see to the investigation and defense of such claim or demand at LESSEE's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving LESSEE of any of its obligations under this paragraph.

5.2 It is the EXPRESS INTENT of the parties to this LEASE, that the INDEMNITY provided for in this section (Section 5), is an INDEMNITY extended by LESSEE to INDEMNIFY, PROTECT and HOLD HARMLESS, the CITY from the consequences of the CITY's OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of the CITY is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the CITY is the sole cause of the resultant injury, death, or damage. LESSEE further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors, volunteers and representatives, in connection

with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

VI. INSURANCE

6.1 Prior to occupancy of the Leased Premises and the conduct of any business thereupon, Lessee shall furnish original Certificates of Insurance to Lessor, which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. Lessor shall have no duty to perform under this Lease Agreement until such certificates shall have been delivered to the Lessor, and no officer or employee shall have authority to waive this requirement.

6.2 Lessor reserves the right to review the insurance requirements of this section during the effective period of the Lease Agreement and any extension or renewal hereof and to modify insurance coverage and their limits when deemed necessary and prudent by the Lessor's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding the Lease Agreement, but in no instance will Lessor allow modification whereupon Lessor may incur increased risk.

6.3 Lessee's financial integrity is of interest to Lessor, therefore, subject to Lessee's right to maintain reasonable deductibles in such amounts as are approved by Lessor (which approval will not be unreasonably withheld), Lessee shall obtain and maintain in full force and effect for the duration of the Lease Agreement, and any extension hereof, at Lessee's sole expense, insurance coverage written by companies authorized and admitted to do business in the State of Texas and rated A or better by A.M. Best Company and/or otherwise acceptable to Lessor, in the following types and amounts:

<u>Type</u>	<u>Amount</u>
(1) Worker's Compensation & Employer's Liability	Statutory \$500,000/\$500,000/\$500,000
(2) Commercial General Liability Aviation Policy with Hangar-keeper's Liability Endorsement to include coverage for the following:	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000.00 per occurrence or its equivalent in excess liability coverage with an aggregate of not less than \$1,000,000.00
(A) Premise/Operations	
* (B) Independent Contractors	
* (C) Personal Injury	
(D) Contractual Liability	
(E) Broad Form Property Damage to include Fire and Legal Liability	
(F) Products/Completed Operations	

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|--|---|
| (3) Property Insurance for physical damage to the Lessee's improvements and betterments to the leased Property | Replacement Cost coverage or eighty percent (80%) of actual cash value Coverage |
| (4) Automobile Liability (any auto) | Combined Single Limit for Bodily Injury and Property Damage of \$500,000.00 per occurrence or its equivalent. |
| *(5) Plate Glass Coverage for Leased Premises | Replacement Cost Insurance Coverage or self-insure, at option of Lessee |
| *(6) Above Ground and/or Underground Storage Tank Storage Tank Liability | \$1,000,000.00 per claim |
| *(7) Aircraft Liability | \$1,000,000.00 per occurrence, Combined single limit, written on an occurrence form |

* If applicable

6.4 Lessor shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by Lessor, and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Upon such request by Lessor, the Lessee shall exercise reasonable efforts to accomplish such changes in policy coverage, and shall pay the cost thereof.

6.5 Lessee agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions.

- Name Lessor and its officers, employees, agents and elected representatives as additional insured (as the interest of each insured may appear), as to all applicable coverage, with the exception of the worker's compensation and employer's liability policy;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where Lessor is an additional insured shown on the policy;
- Worker's compensation and employer's liability policy will provide a waiver of subrogation in favor of Lessor.

6.6 Lessee shall notify Lessor in the event of any notice of cancellation, non-renewal or material change in coverage and shall give such notices not less than thirty (30) days prior to the change, which notice must be accompanied by a replacement Certificate of Insurance. All notice shall be given to the Lessor by Certified Mail at the following addresses:

Aviation Director
CITY OF SAN ANTONIO
9800 Airport Blvd.
Attn: Properties Division/Lease #200604
San Antonio, Texas 78216-9990

6.7 The proceeds for any such insurance, paid on account of fire, explosion or other damage shall be used to defray the cost of repairing, restoring or reconstructing said improvements, as necessary.

6.8 It is expressly understood and agreed that all operations of Lessee under this Lease Agreement between Lessor and Lessee shall be covered by such policies of insurance or self insurance as approved by Lessor's Risk Manager and that all personal property placed in the Leased Premises shall be at the sole risk of Lessee. The procuring of policies of insurance shall not be construed to be a limitation upon Lessee's liability or as a full performance on its part of the indemnification provisions of this contract. Lessee's obligation is notwithstanding said policy of insurance, for the full and total amount of any damage, injury or loss caused by or attributable to its activities conducted at or upon the Airport.

VII. PERFORMANCE GUARANTEE

7.1 Lessee shall deliver to the Director on or before the execution of this Lease Agreement and shall keep in force throughout the term hereof either an Irrevocable Letter of Credit in favor of Lessor drawn upon a bank satisfactory to Lessor or a Surety Bond payable to Lessor. The foregoing shall be in form and content satisfactory to Lessor, shall be conditioned on the term hereof and shall stand as security for payment by Lessee of all valid claims by Lessor hereunder. If a bond shall be delivered, it shall be issued by a sound indemnity company authorized to do business in Texas. The amount of the Irrevocable Letter of Credit or Surety Bond to be delivered by Lessee to the Director on or before the date of the execution of this Lease Agreement shall be TWENTY-THREE THOUSAND (\$23,000.00) DOLLARS. The amount of the Irrevocable Letter of Credit or Surety Bond shall be adjusted as necessary so that such amount shall at all times equal at least one-half (1/2) of the total annual rental payable by Lessee to Lessor hereunder.

VIII. STANDARD PROVISIONS AND COVENANTS

8.1 The Standard Provisions set forth in, and attached hereto as Exhibit 2 are incorporated herein and made a part hereof by reference.

IX. SPECIAL PROVISIONS

9.1 Lessee understands, recognizes and agrees that Lessee takes the Leased Premises on an "As Is" basis.

9.2 Covenants Regarding Asbestos: Lessee acknowledges receipt of a copy of the Asbestos Survey was conducted by Medina Consulting Company on December 14, 2005, and that such survey identified Asbestos Containing Building Materials ("ACBM") in the joint compound in the parts room and tool room of Building 602. Accordingly, in order to avoid any disbursement of such ACBM's, Lessee agrees not to tamper with such joint compound, or commence any

construction work in the parts room or tool room of Building 602, without prior written approval of its construction and remediation plans by the Airport Manager.

9.3 Fire Suppression System Inspections. Lessee shall, at its sole cost and expense, be responsible for assuring that an annual inspection of the fire suppression system and jockey pump in Buildings 602 and 604 are conducted by the required agency. Lessee agrees to provide a copy of each annual inspection report to the Airport Manager no later than June 1, 2007, and on that same date each year thereafter, during the entire term of this Lease and any extensions.

9.4 Certificates of Occupancy. Lessee at the Lessee's sole cost and expense will obtain and deliver to the Airport Manager, prior to the Lease Commencement Date, any existing Certificates of Occupancy. In the event that a Certificate of Occupancy has not been issued for the Building 602 and/or 604, ("Building Premises") or should a new Certificate of Occupancy be required for either building, Lessee agrees to perform at Lessee's sole cost, risk and expense repairs and improvements necessary to obtain the required Certificates of Occupancy and deliver such Certificates of Occupancy to the Manger prior to the Commencement Date. Lessee acknowledges it is currently in possession of the Leased Premises pursuant to prior agreements which this Lease supercedes, and that under those agreements Lessee had the duty and responsibility to maintain the Building Premises in good condition, and that Lessor shall not incur any repair or maintenance expense in connection with such Building Premises or in any other way be harmed by virtue of its entering into this lease.

9.6 Aircraft Hangar Door Improvements and Rent Credit Eligibility:

A. Lessee may, at Lessee's sole cost and expense, install two aircraft hangar doors on Building 604 – one (1) new aircraft hangar door will be provided by Lessee at its sole cost and expense, and one bi-fold hangar door, frame and motor, will be provided by the Lessor, in "as-is" condition and without warranty as to suitability or condition, for installation on Building 604.

B. As required by the Standard Provisions of this Lease, Lessee shall be responsible for obtaining all required approvals and building permits for installation of the two (2) doors, including but not limited to, approvals by the City's Historic Preservation Office and/or Historic and Design Review Commission, and prior to installation of the two (2) doors, Lessee shall provide to the Airport Manager, final drawings, material specifications and cost estimates for materials and labor to install the two (2) doors for approval. No construction shall commence on the Leased Premises prior to receipt of Lessor's written approval and notice to proceed.

C. Upon completion of the aircraft hangar door improvements to Building 604 Lessee shall provide Lessor with the following:

1. itemized invoices or other data satisfactory to the Airport Manager substantiating the completion of the aircraft hangar door improvements, which at a minimum shall include an itemized list of construction materials used and their respective costs, an itemized accounting of labor costs, including but not limited to quantity, unit, cost, amounts, and copies of invoices from suppliers of such labor; and

2. a certified statement from its contractor specifying the total cost of the hangar door improvements, and a statement certifying that all applicable work for the building

improvements were performed in accordance with the plans and specifications previously approved by the Airport Manager.

D. Provided the Lessee is in good standing under the terms of this Lease, and not in default, upon receipt and approval by the Airport Manager of the records provided by Lessee, a rent credit will be authorized to Lessee in the amount of the documented actual costs incurred, not to exceed \$4,000.00 for the installation of the first hangar door. Upon completion of the installation and receipt of documentation of actual cost incurred for the installation of the 2nd hangar door an additional rent credit not to exceed \$4,500.00 will be granted. Any rent credit approved shall be applied to the rent only and shall have no other value.

E. In the event that Lessee does not complete the aircraft hangar door improvements in accordance with approved plans and specifications within nine months of the Commencement Date of this Lease, then Lessee shall become ineligible for the rent credit provided for in Paragraph D, above and the hangar door provided by Lessor shall be promptly returned to Lessor.

9.7 Secondary Fuel Containment System. Within one hundred twenty (120) days of the Commencement Date of this Lease, Lessee agrees, at Lessee's sole cost and expense, to complete construction of a Secondary Fuel Containment system to accommodate its fuel trucks.

A. Within fifteen (15) days after the Lease Commencement Date, Lessee shall provide its final plans and specification for design and installation of the Secondary Fuel Containment System required under this Section 9.7. No work shall commence prior to the written approval of Airport Manager of the final plans and specification for design and installation.

B. In the event that Lessee does not complete the installation of the Secondary Fuel Containment System in accordance with the approved plans and specifications within one hundred twenty (120) days of the Commencement Date of this Lease, then this Lease Agreement shall be automatically terminated, and the Lessee will have forty-five (45) days to vacate the Leased Premises and remove all of its personal property from the Leased Premises.

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EXECUTED this the _____ day of _____, 2006.

Lessor:
CITY OF SAN ANTONIO

Lessee:
SAN ANTONIO AVIATION, INC.

By: _____
Sheryl Sculley, City Manager

By: J.R. Bean
Signature

ATTEST:

By: _____
City Clerk

J.R. Bean
Printed Name

APPROVED:

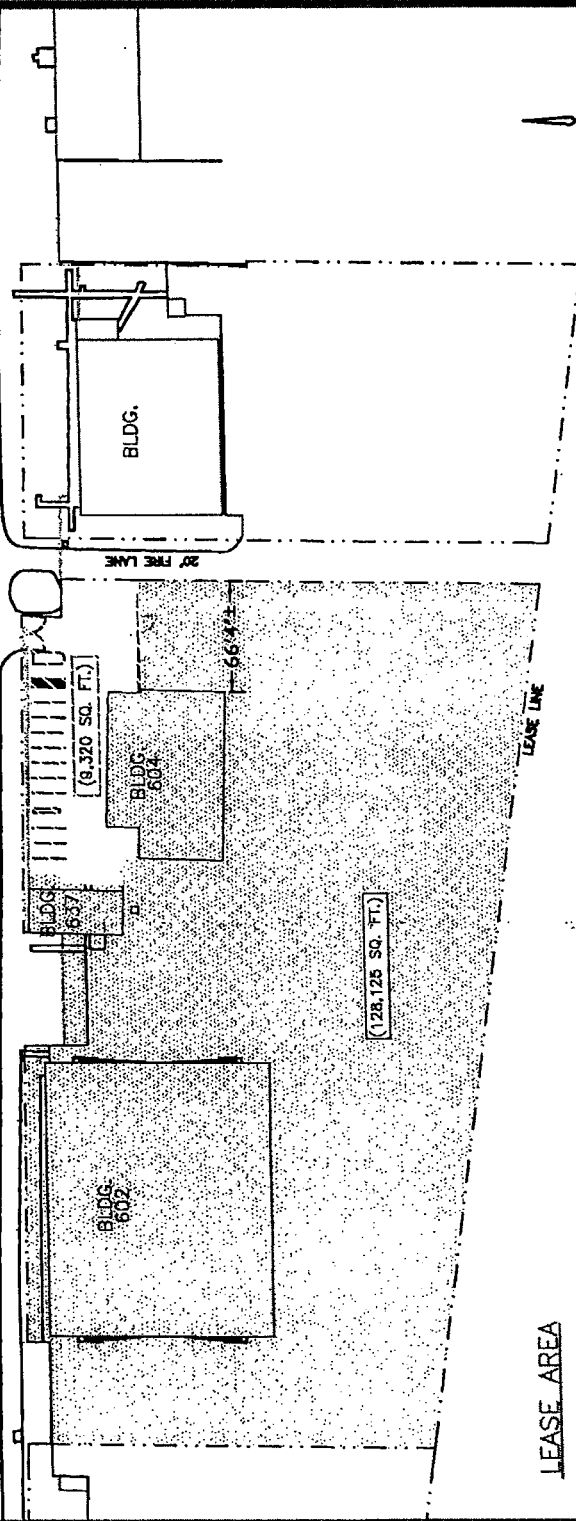
By: _____
City Attorney

General Manager
Title/Authority

8411 Mission Road
SAN ANTONIO, TX 78214
Mailing Address for Notice:

74-2322016
Federal Tax Identification No.

MISSION RD.



LEASE AREA

PARKING	9,320 SQ. FT.
GROUND	128,125 SQ. FT.
TOTAL	137,445 SQ. FT.

STINSON MUNICIPAL AIRPORT
HANGARS 2 & 3

Scale: 1" = 100'
PDF File NTS

EXHIBIT 1
for premises leased to
SAN ANTONIO
AVIATION
at
STINSON
MUNICIPAL AIRPORT
LEASE No. _____

DIMENSIONS, CONFIGURATION AND AREA
SUBJECT TO FINAL SURVEY RESULTS